



STATE OF NEVADA

EARLY RETURN TO WORK PROGRAM

**A GUIDELINE FOR MANAGERS, SUPERVISORS AND
PERSONNEL REPRESENTATIVES**

PREPARED BY:

RISK MANAGEMENT DIVISION

REVISED: June 2010

EARLY RETURN TO WORK PROGRAM

TABLE OF CONTENTS

	<u>Page #</u>
General Policy/Agency Responsibilities.	1
Key Points	2
Other Significant Factors	3
Modified Duty Options	4
Employee Responsibilities.	6
Supervisor's Checklist	8
Utilizing the 'Pool' of Modified Duty Jobs	11
Permanent Disabilities	12
Physical Assessment Form	13
Temporary Modified Duty Assignment Form	14
Procedures for Workers' Comp Injuries/Occupational Diseases	15
Workers' Compensation Leave Option Form	17
Personnel Regulations (NAC's).	19
Subsequent Injury Fund	25
ERTW (Permanent Limits) Flow Chart	26

EARLY RETURN TO WORK PROGRAM

POLICY: The State of Nevada hereby establishes an Early Return to Work Program to enhance recovery, comply with the Americans with Disabilities Act, help minimize workers' compensation costs and to provide a service to employees who are injured or contract an occupational disease in the course and scope of their employment with the State. Employees will be placed in temporary modified duty positions, when feasible, during the course of recovery from an injury or occupational disease that precludes them from performing their normal job tasks. In the event of a permanent disability that prevents an employee from performing the essential functions of their regular position and for which reasonable accommodations cannot be made, every effort will be made to place the employee in an alternative vacant position that they are qualified to perform and that matches their physical limitations.

AGENCY RESPONSIBILITIES:

- Provide temporary modified duty that accommodates the physical limitations of employees who are recovering from an industrial injury or occupational disease.
- Identify possible alternative modified work or special projects prior to the need to utilize modified duty.
- Communicate the employee's responsibilities and supervisor's responsibilities in regard to their role in this program and ensure that all parties perform these responsibilities.
- Communicate with the Industrial Insurance carrier, the Managed Care Organization (MCO), if applicable, and the physicians in regard to the availability of modified duty, the status of the employee's claim and any extenuating facts or circumstances that could affect the employee's early return to work.
- If unable to accommodate the employee's restrictions, contact Risk Management and State Personnel to locate appropriate modified duty within another agency.
- If unable to provide modified duty or if a physician refuses to release the employee to ANY type of work, establish a regular schedule of consistent contact with the employee to provide moral support and assistance and to monitor the progress of their medical status.
- Follow up with Insurer and the MCO, if applicable, to ensure the efficient and timely handling of the claim.
- If an employee sustains permanent limitations as certified by their physician, that do not allow the employee to perform the essential functions of their position, every effort will be made to make reasonable accommodations. This includes transfer to an appropriate vacant position.
- Interview qualified employees with permanent limitations from other agencies, who are referred from State Personnel for vacant positions and give consideration to hiring them.

NOTE: Risk Management will serve as a technical resource for information and problem solving. Call 687-3187 for information or assistance.

KEY POINTS OF THIS PROGRAM

"EARLY RETURN TO WORK" means as soon as possible after an accident-ideally **NO LOST TIME** will be incurred. If return to work cannot be accomplished within 4 weeks, assistance from Risk Management should be solicited.

COMMUNICATION AND PROACTIVE INVOLVEMENT OF THE EMPLOYER are the two most important factors of this program. Breakdown in communications between the physician, employer, claimant and the insurer can result in unnecessary delays.

EMPLOYEE'S RESPONSIBILITY TO RETURN PHYSICAL ASSESSMENT FORM-

Another significant factor is the employee's responsibility to report directly to their supervisor or other designated employee after every visit to their physician to relay their work restrictions.

INJURED WORKER PACKET- Employees will be given a packet to take with them to their medical provider when other than a minor injury is incurred. This packet includes:

- A physical assessment form
- Current job description

If the employee is unable to take these forms on their initial visit they should be faxed directly to the providers's office and a follow up telephone call made to ensure it's receipt.

MANAGED CARE ORGANIZATION INVOLVEMENT-If the injury is handled through one of the MCO's, it will be the responsibility of their representative to communicate with the providers. The agency should contact the specific MCO for assistance in determining claim status and work restrictions.

INSURER INVOLVEMENT-If the injury is handled through an insurer, the employee's agency will be responsible for initial communication with the provider. After 10 days of lost time, the assistance of the appropriate insurer representative should be solicited.

INSURER AND THE MCO should be notified when an employee returns to work, when the modified duty assignment ends and if any complications arise.

UNCOOPERATIVE EMPLOYEE OR PHYSICIAN-The most challenging factor will be to obtain a physician's release when an employee does not want to immediately return to work. Extra effort will need to be made which will most likely include a trip to the physician's office to discuss the proposed modified duty assignment. Another option will be to request a second opinion in regard to the employee's ability to return to modified duty.

OTHER SIGNIFICANT FACTORS

MODIFIED DUTY PROGRAMS have been proven to be highly effective in reducing and controlling workers' compensation costs.

- Modified duty serves as a **"TOOL"** for motivated employees who want to continue working during the course of their recovery from an injury or occupational disease. It helps them stay in the work environment which in turn has proven to speed up recovery.
- It serves as a **"cost control technique"** for employees who are not motivated to be at work during their recovery or for those situations where there is suspicion in regard to the severity of the injury. In this case the modified duty is made to be so light in nature that the physician cannot medically substantiate not releasing the employee to work.

If the employee refuses to return to work or if the modified duty does not work out for reasons not related to their medical condition (attendance, cooperation, etc.) the employee's compensation payments will be discontinued-NRS § 616C.475 (5, B). This serves as the ultimate motivating factor for reluctant participants.

MODIFIED DUTY POOL

A "POOL" of modified duty positions has been developed. If an agency cannot accommodate an injured employee's restrictions a position will be located through this pool. The original agency will continue to pay full salary for the employee while the receiving agency will enjoy the benefit of an extra employee. Departments are encouraged to develop and locate their own alternative positions. If this is not possible Risk Management and State Personnel should be contacted to locate a position. **NAC 284.6008 applies.**

CONTRIBUTING FACTORS

Any extenuating factors involved with an injury or occupational disease must be communicated in writing to the insurer and the MCO, if applicable. Ideally this should be done prior to claim acceptance. These factors could include:

- Knowledge about pre-existing injuries or conditions
- Second jobs or hobbies that could affect the severity of or recovery from the injury
- Third party involvement (conditions of leased property, equipment malfunction, vehicles)
- Suspected fraud

SUBSEQUENT INJURY FUND

If there is knowledge about a preexisting condition that could affect the severity or recovery from an injury or occupational disease, a subsequent injury form must be completed and submitted to the insurer for review. If accepted the costs of the claim will be paid from this fund and not charged against the agency's policy. The employee's benefits will not be affected. (SEE RELATED SECTION).

STATE OF NEVADA

WHAT IS A TEMPORARY MODIFIED-DUTY ASSIGNMENT?

Option 1

Employee remains assigned to regular job with some key tasks or functions temporarily altered or suspended or hours temporarily reduced. If the employee is performing at least 51% of the essential functions of their position there will not be a classification issue and this modified duty will not necessarily need to be limited to 90 days as is required with the other options. This is considered reasonable accommodation provided that an undue hardship is not placed on the agency due to the limited work status of the employee.

Option 2

Medical restrictions prevent the employee from performing significant portions of the regular job tasks. Supplemental tasks not usually done by the employee, but within medical restrictions are identified. Supplemental tasks are assigned to fill employee's allowed work time.

Option 3

Employee's medical restrictions prevent employee from accomplishing most of his or her regular job. A series of supplemental tasks are assembled and combined to fill employee's allowed work time. Creativity is essential-special projects, volunteer related activities, assistance with safety program implementation, etc.

Option 4

If the injured employee's agency cannot accommodate temporary modified duty, an appropriate position from the "Pool of Temporary Modified Duty Jobs" will need to be located. The employee works in either a vacant position, volunteer position or special project for a maximum of 90 days. The original agency will continue to pay the employee's salary.

Special efforts must be made by the original agency, receiving agency and the insurer to ensure that all related issues are properly handled. Risk Management should be notified when this option is utilized. The Risk Management Division has the authority to fine an agency \$1,000.00 if they do not provide light duty for an injured worker.

In all options the employee remains in their regular position and job classification and continues to receive regular wages and accrue benefits as usual. Seniority, lay-off rights and other employee rights remain intact. Wage and benefits are pro-rated, based on actual hours worked. In some cases, when an employee is only working part time, wages may be supplemented by payment of temporary partial disability compensation through the insurer to ensure that they are earning at least 66 2/3 % of their regular wage. This can be worked out with the insurer.

Changes in modified duty are based on the treating physician/chiropractor's documented physical limitations. The employee must bring an updated physical assessment form to their supervisor after each appointment to evaluate the possibility of changes or increase in duties.

Options 2, 3 and 4 are *temporary* special assignments. They are offered when there is medical documentation that the employee can not perform the regular job, but is expected to recover from the injury or illness within a reasonable period of time. Early Return to Work is not reinstatement or reemployment.

These special assignments will end when one of the following occurs:

- Ninety consecutive calendar days have elapsed from the day the employee accepts the assignment.
- The employee is released for regular work.
- Permanent restriction, that prevents the employee from performing the essential functions of their regular position and for which reasonable accommodations cannot be made, is documented.
- The temporary assignment is no longer available or other conditions require the agency to stop the temporary assignment.
- Claim for workers' compensation benefits is denied.

An option to extend the 90 days is to temporarily reclassify the employee's position. This could be utilized if the disability is projected to continue for an extended period of time and the reclassification does not pose a hardship to the agency.

A second 90 day temporary position may be approved if the employee performs one term while being conservatively treated for an injury and then ends up having a surgery which requires some lost time and a subsequent recovery period is needed.

Refer to NAC 284.6004 – 284.6008

STATE OF NEVADA

EARLY RETURN TO WORK PROGRAM

EMPLOYEE RESPONSIBILITIES AND INFORMATION

Revised 2010

1. **Report ALL incidents and accidents as soon as possible to your supervisor (or his/her designee in the event of an absence), preferably by the end of the shift, and complete a Notice of Injury (C-1) Form.**

The Notice of Injury (C-1) Form must be completed and submitted to your supervisor unless immediate medical attention is sought. This form serves as a record in the event that medical treatment is sought at any future date. You will receive a copy and your supervisor will retain a copy. The Insurer is required to deny a claim for injuries if this C-1 Form is not completed within 7 days of the incident/accident. (NRS 616C.015)

2. If immediate medical treatment is needed, when practical, you must:

- Notify your supervisor and receive information in regard to procedures and forms that must be completed. You can obtain all information needed at the following web site: risk.state.nv.us
- Have your physician/chiropractor complete the Physical Assessment Form or a similar form that provides the same information.
- Return the Physical Assessment Form to your supervisor or designated agency representative within 24 hours after the visit if possible, but not later than 3 days.

NOTE: Employees must select a provider from the appropriate Managed Care Provider list. Employees are urged to seek initial care at one of the designated "First Stop Clinics". Employees may change providers within 90 days without approval from the insurer.
--

3. **Temporary Modified Duty:** If your physician indicates that you have temporary physical restrictions that do not allow you to perform all of your regular job duties, you will be assigned modified duties, as necessary. If you cannot perform a majority of your regular job duties, either a special duty assignment that meets your physical restrictions will be developed or an appropriate assignment will be located through the 'pool' of modified duty assignment from other agencies. If you do get an assignment at a different agency, you will receive your normal wages and benefits. Wages will be pro-rated if less than 8 hours/day are worked. This assignment will last until whichever of the following occurs first:
 - Ninety consecutive calendar days elapse from the acceptance of the special assignment.
 - Your physician/chiropractor indicates you have permanent restrictions that will prevent you from returning to your regular job.
 - Appropriate modified duty tasks are no longer available
 - You are released to full duty
 - Your claim for workers' compensation benefits is denied
4. Employees must respond to a modified duty job offer within 24 hours when possible, but not later than 3 days. Exceptional circumstances will allow up to 7 days for a response. The insurer will discontinue compensation benefits if an employee does not accept a modified duty assignment that meets their physical limitations, and is located within 25 miles of the original position. (NRS 616C.475)

Note: Employees may, at their own discretion, accept a temporary position that is more than 25 miles from their original position but will not be subject to the statute noted above.

Employees may elect to utilize their benefits under the Family Medical Leave Act, if applicable, pursuant to NAC 284.581, in lieu of accepting a modified duty assignment. Provisions of FMLA will supersede the provisions of this program. However, workers' compensation benefits may be discontinued.

5. If you are not released to any type of modified duty or if your temporary modified duty has expired you must:
- Maintain regular contact with your supervisor or designated representative as agreed upon.
 - Provide Physical Assessment Forms completed by your provider, after each appointment, to your supervisor or other designated representative unless other arrangements are made. This will constitute your medical leave authorization. Only this form or one with similar information from your provider will be accepted as documentation of authorized medical leave.
 - Select a leave choice option.
 - Provide the agency with a current address and phone number at all times.
6. **Permanent Physical Limitations:** If you are released to work, but your provider indicates that you will have permanent physical limitations that will not allow you to perform the essential functions of your regular position and, changes or accommodations cannot be made, you will be assigned a Vocational Rehabilitation Counselor. This Counselor will contact your agency to determine if an alternate vacant position is available. This counselor will coordinate with State Personnel to identify suitable positions that you are qualified to transfer to or voluntarily demote to. You will have re-employment rights for vacant positions that you qualify for, within your Department, for a maximum of one year. Your name will be referred to other Departments for consideration when hiring for vacant positions that you qualify to transfer to or voluntarily demote to. An appropriate alternate position must be approved by your provider. A roundtable discussion will be coordinated through Risk management to discuss all of your options. If a suitable vacancy is not offered within 30 days of the meeting with Risk Management, other rehabilitation options will be available through the insurer.

Note: Your assigned Rehabilitation Counselor may contact you prior to determination of permanent limitations, if there are early indications that you may not be able to return to your regular position. This is intended to facilitate the vocational rehabilitation process. You will be expected to cooperate with this process and provide all necessary information, including the completion of a State Job Application.

For information regarding your claim, contact your assigned claims adjuster at Cannon Cochran Management Services, Inc. (CCMSI) at (775) 882-9600. Your rights and benefits under Workers Compensation are outlined on the back of the Notice of Injury (C-1) form and are available for review at the Risk Management website at www.risk.state.nv.us. If you are having a problem obtaining information or cooperation during the course of your claim, or if you have any questions regarding this program, contact your agency Personnel Representative or Risk Management at 687-3188.

I have read the above information and understand my responsibilities.

Employee Signature and Date

Supervisor Signature and Date

Retain original form. Provide employee with copy.

STATE OF NEVADA

Supervisor Workers' Compensation Checklist

EMPLOYEE _____ EE ID# _____ INJURY DATE _____

** All parts of this checklist must be completed with "date accomplished" or "not applicable."*

Reporting:

- _____ **Notice of Injury (C-1)** completed by Employee as soon as possible after incident/accident, but not more than 7 days. (Nevada Revised Statutes 616C.015)
- _____ **Supervisor's Accident Investigation** completed (immediately if possible, not later than 48 hours). Obtain written witness statements if applicable. (Nevada Revised Statutes 618.383)
- _____ **Employer's Report of Injury (C-3) Form** completed by supervisor, (if employee seeks medical treatment) and sent to the insurer and/or designated agency representative within 6 working days. The Workers' Compensation Leave Option Form and Employer's Wage Verification (D-8) form also need to be sent to the insurer. **FAX all documents to CCMSI at (775) 882-9601**
- _____ Forward a copy of the C-3 and Supervisor's Accident Investigation Report to the Agency Safety Coordinator and the Risk Management Office.

Injured Worker Packet

- _____ Provide employee with: 1) Employee's Responsibility Form, 2) Medical Provider List, 3) Physical Assessment Form, 4) Workers' Compensation Leave Choice Options Form, 5) Referral Slip
- _____ Review Employee's Responsibilities Form before the employee leaves the premises, and obtain a signature on the **Workers' Compensation Leave Choice Option Form**. If the employee leaves prior to this getting accomplished, review by phone within 24 hours of incident.
- _____ Instruct the employee to return the Physical Assessment Form to you within 24 hours if possible, but not later than 3 days. If employee is not available, mail or FAX forms directly to their doctor.

Early Return to Work

- _____ Inform the employee that you will design modified work, based on the doctor's limits, if possible or locate an appropriate assignment from the "Pool of Temporary Modified Duty Jobs". Remind the employee that the physical assessment form must be returned within **24 hours if possible, but not later than 3 days** of every doctor visit.
 - _____ If the employee is medically restricted from returning to full duty:
 - _____ Obtain the treating physician's name, address, telephone and FAX number.
 - _____ Identify modified duty utilizing the Physical Assessment Form.
 - _____ Call the treating physician, if necessary, to discuss modified duty options.**
If the claim is accepted by the insurer, solicit the assistance of the assigned Claims Adjustor in communicating with the Physician.
- **Note: All oral communications made with an employee's treating physician must be logged and made available to the employee's attorney at a later date, if requested. (Nevada Revised Statutes 616D.330)**

- _____ Outline tasks in a temporary duty assignment description.
- _____ Contact and inform the employee when he/she will be expected to report to work. (See sample Letter)
- _____ Provide the employee with a copy of the temporary assignment description and obtain the employee's signature.
 - _____ Maintain the original in an appropriate file.
 - _____ Send a copy to the appropriate Claims Adjustor from the insurer.
- _____ Call the doctor if you or the employee have **ANY** questions about medical restrictions or assignments *before* the employee starts work.
 - **Note: Agencies will be assessed a \$1,000.00 deductible if an employee is not returned to work after 30 days of receipt of work restrictions.**

If the physician documents that the employee is to remain completely off work:

(Note: Physicians are required, by law, to provide work restrictions. They should not provide a work release that simply states that the employee is to stay off work.)

- _____ Determine if the employee is in a hospital, confined to bed rest or immediately recovering from a surgery.
- _____ If not, either instruct the employee to return to the physician's office to complete the Physical Assessment Form, or contact the Physician's office directly to remind them of their legal obligation and request work restrictions.
- _____ If the physician does not provide the required information, contact either the designated agency representative or the Risk Management Office for assistance.

If the employee does not report as assigned:

- _____ Notify the Claims Adjustor and appropriate agency representatives.
- _____ Try to call/contact employee that day to determine why they did not report for work.
- _____ Send a certified letter to the employee instructing them to return to work; and that failure to do so will result in an absent without leave status, subject to progressive disciplinary procedures.

Temporary Modified-Duty Assignment

- _____ **Day One** (first day employee reports as assigned)
 - _____ Review assigned tasks, physical restrictions based on physical assessment, work assignment and supervisor, with the employee **prior** to beginning work.
 - _____ Remind the employee not to work beyond the established work restrictions.
If you or employee have any questions regarding restrictions or tasks, call the doctor.

- _____ **Day 30 and Day 60** (consecutive calendar days from Day One):
- _____ Update and upgrade task assignments as doctor relaxes employee's limitations.
 - _____ Review each new assignment with employee prior to beginning work.
 - _____ Ask the claims adjustor to contact the physician/chiropractor, if no progress is noted.
 - _____ Provide copies of any correspondence to the claims adjuster and the appropriate agency representative.
- _____ **Day 75**
- _____ Give the employee two-week notice if the employee is not completing at least 51 % of regular job duties. Send a copy of the notice to the claims adjustor and appropriate agency representatives.
- _____ **Day 90:**
- _____ Arrange call-in program with employee, specifying frequency of call-in, when to call in and to whom to report. Have employee complete Workers' Compensation Leave Options Form, if not already completed.
 - _____ If the employee is performing 51 % of the job duties and is still making medical improvements, extend the modified duty assignment in increments of 30 days as indicated (maximum 90 days). Always identify the next date of evaluation-do not leave it open-ended.
 - _____ Give the employee two-week notice, maximum length of modified duty is 180 days, send a copy of the notice to the claims adjuster and appropriate agency representatives.

Notify the Claims Adjustor in writing when the modified duty assignment has ended.

SPECIAL NOTE: Make a special effort to provide any assistance needed to the employee in obtaining information or assistance in the management of their claim. A caring and helpful attitude by the supervisor is very important in promoting recovery from an injury.

All parts of this checklist must be completed with "date accomplished" or "not applicable." If you have any questions, contact your Personnel Representative, Safety Coordinator or Risk Management.

I have completed the actions as required on this checklist on the dates I have indicated.

Signature

Title

Date

EARLY RETURN TO WORK PROGRAM

UTILIZING THE "POOL" OF TEMPORARY MODIFIED DUTY POSITIONS

When an agency is unable to provide an alternative position to a recovering employee, it will be necessary to locate an appropriate position from the "pool" of positions. Each situation will need to be evaluated on its own merit as to the appropriateness of locating alternative employment. The employee can not be required to perform modified duty that is 25 or more miles from their original work location. A motivated employee can be offered a position or special project that is more than 25 miles from their original location, but can not be required to take it.

The first step is to contact the Division Personnel Representative or Department Personnel Officer to determine if an alternative position or special project is available within the agency's Division or Department. If this is not possible, Risk Management and State Personnel should be contacted for assistance in locating an appropriate position.

The employee's supervisor or other designated representative will be responsible to contact Risk Management and State Personnel to provide the employee's physical restrictions in order to determine an appropriate position.

The Supervisor from the receiving agency, who will be responsible for the employee, will be required to sign the temporary modified duty job description. **It is imperative that the physical limitations are not exceeded.** Consideration will need to be given to part time situations and required time off to attend medical appointments. Also, the original agency should notify Risk Management when a position from the "Pool" is utilized as we have been directed to monitor this aspect of the program.

If an agency has a position or special project that can be considered light duty and would be appropriate to accommodate someone with a physical limitation (usually back injuries, hand and wrist injuries or leg, foot or ankle injuries), a description of the duties and physical requirements can be sent to the appropriate Risk Management for addition to this "Pool".

Risk Management will be reviewing lost time injuries with the insurer and the Managed Care Organizations. Agencies with employees who have not been returned to work within 14 days of their injury will be contacted to facilitate this process.

**If there are any questions or problems in regard to this aspect of the program,
Risk Management can be contacted at 775-687-3187 for assistance.**

EARLY RETURN TO WORK PROGRAM

PERMANENT DISABILITIES

This section explains the procedures that will occur in the event that an employee is unable to perform the essential functions of their regular position due to permanent disability that results from their industrial injury or occupational disease. This differs from temporary modified duty as alternative positions will need to be permanent and the 90 days will not apply. **State Employees have re-employment rights** to a position that they qualify for and for which their permanent limits do not preclude them from performing the essential functions. The positions must be at or below their pre-injury position grade level and are restricted to positions with the Department they were working in at the time of the injury. Refer to NAC 284.6013 – 284.6019

In the event of a lost time injury or the injured worker is on modified duty for 75 days or there are anticipated permanent limits, the insurer will assign a Rehabilitation Counselor. At that time, a letter will be forwarded to the employee requesting that a State Job Application be completed and returned to the Rehabilitation Counselor. A copy will be provided to the employee's agency and Risk Management. The Rehabilitation Counselor will forward the completed application to a State Personnel Analyst. The Analyst will determine alternative state positions for which the employee meets the minimum qualifications and would be eligible to take a transfer, comparable transfer or voluntary demotion and return this information to the Rehabilitation Counselor. This information will then be forwarded to the employee and the agency for consideration of future vacancies.

Upon receipt of permanent limitations, the insurer will send a formal letter to the agency for review of the possibility of reasonable accommodations or placement into an alternative position that will be available within 90 days. If the agency indicates that neither of these two options is possible, the insurer will contact Risk Management ERTW coordinator to set up a meeting with all parties to discuss the employee's options, to explain their rights to transfer and voluntarily demote and to review appropriate vacancies.

From the date of this consultation the State, as the employer, will have 30 days to review vacancies, offer alternative employment or propose an on-the-job training opportunity. In some cases, the position does not have to be immediately available, as long as the offer is made and accepted within the 30 days and the position will be available within 90 days. Once this 30 days has elapsed the Rehabilitation Counselor will pursue other rehabilitation options with the employee.

During this 30 day time period the names of eligible employees will be provided to the various Personnel Representatives who are requesting certification lists for appropriate vacancies. **These employees should be given the opportunity for an interview.** Follow up calls will be made by Risk Management to determine the agency's interest in hiring the employee. If interested, the agency will need to forward a job description to the Rehabilitation Counselor for approval from the physician. State Personnel will provide a questionnaire regarding this process that will assist in follow up efforts.

Every effort needs to be made to offer these employees alternative employment as ADA issues could apply and the costly process of vocational rehabilitation can be avoided.

STATE OF NEVADA PHYSICAL ASSESSMENT FORM

To: Treating Physician/Chiropractor

State employees are required to return this form to their supervisor after each medical appointment. Please provide specific information based on your medical findings. An alternative form may be used if it provides the same information.

Patients Name: _____ Date of Injury: _____

Agency: _____ Date of Appointment: _____

IN AN 8-10 HOUR DAY (OR LONGER) EMPLOYEE CAN:

Work:	1-3 hrs	3-5 hrs	5-8 hrs	8-10 hrs	10+ hrs
Walk:	1-3 hrs	3-5 hrs	5-8 hrs	8-10 hrs	10+ hrs
Sit:	1-3 hrs	3-5 hrs	5-8 hrs	8-10 hrs	10+ hrs
Stand:	1-3 hrs	3-5 hrs	5-8 hrs	8-10 hrs	10+ hrs
Lift:	Up to 10lbs	10-20lbs	20-50lbs	50 + lbs	

EMPLOYEE IS ABLE TO:

Lift:	Frequently	Occasionally	Not at all
Bend:	Frequently	Occasionally	Not at all
Carry:	Frequently	Occasionally	Not at all
Climb:	Frequently	Occasionally	Not at all
Kneel:	Frequently	Occasionally	Not at all
Reach over shoulders:	Frequently	Occasionally	Not at all

HANDS/WRISTS: Left Right Both

File handling:	Frequently	Occasionally	Not at all	Wt.
Pushing/Pulling:	Frequently	Occasionally	Not at all	Wt.
Typing/Keying:	Frequently	Occasionally	Not at all	
Simple Grasping:	Frequently	Occasionally	Not at all	
Fine Manipulation:	Frequently	Occasionally	Not at all	

Safely drive or operate State vehicle at work: ☐ Yes ☐ No

Safely drive or operate heavy equipment or machinery: ☐ Yes ☐ No

No inmate confrontations and/or responding to emergencies: _____

Other restrictions (or suggested accommodation): _____

Has medication been prescribed? ☐ No ☐ Yes What: _____

If yes: Can medication be taken while working ☐ No ☐ Yes – are there any restrictions and if so what: _____

Condition stable: ☐ Yes ☐ No Condition ratable: ☐ Yes ☐ No

May have suffered a permanent partial disability: ☐ Yes ☐ No

☐ Released to **Full Duty/ No Restrictions** (Date) _____

☐ Certified **Totally Temporarily Disabled** (Dates) From: _____ To: _____

☐ Released to **Restricted/Modified Duty** (Date) From: _____ To: _____
Restrictions Are: ☐ Permanent ☐ Temporary

Date of next appt: _____ Physician PRINTED NAME: _____

Physicians signature: _____ Date: _____

STATE OF NEVADA

TEMPORARY MODIFIED-DUTY ASSIGNMENT
FOR RECOVERING EMPLOYEES

Employee's Name _____ Claim# _____
Date of Injury _____ Date Returned to Work _____ Program End Date _____

This assignment is available *IMMEDIATELY* for a maximum of 90 calendar days.

JOB AND PAY DATA

_____ Unchanged from regular work. _____ Changed from regular work
_____ Full-time _____ Part Time Shift/Days Off _____

Agency/Location: _____

Supervisor/(phone): _____

If part of 'Temporary Job Pool':

Regular Agency/Supervisor/Phone: _____

Duties Assigned/Physical requirements:

DUTIES: _____ % TIME/SHIFT

These job duties do not have the following physical requirements:

Supervisor Statement:

I have designed this assignment based on the treating physician's medical restrictions. If I or the employee have any questions regarding the medical appropriateness of this assignment, I will contact the doctor immediately.

Supervisor Signature/Date

Employee:

I have read and understand this temporary assignment. I agree to work within the restrictions listed. If I have any questions or feel I am being asked to work beyond my capabilities, I will notify my supervisor immediately.

Employee Signature/Date

FOR OFFICIAL USE ONLY

Original to Employing Agency

Copy to Agency of Record

Copy to Employee

Copy to MCO/TPA

Copy to Risk Management if part of 'Pool of Modified Duty Jobs'

STATE OF NEVADA

PROCEDURES FOR WORKERS' COMP INJURIES/OCCUPATIONAL DISEASES

Revised 06-2010

Employer's Report of Injury (C-3 Forms) can be faxed to CCMSI:

1-775-882-9601

(7 Days a Week-24 Hours a Day)

Primary Contact Phone Number
(775) 882-9600 or toll free (877) 243-1253

EMERGENCIES/URGENT CARE CENTER:

1. Employee is to seek emergency/urgent care at the nearest facility when necessary.

Note: Designated Occupational Health Centers should be utilized, if possible, to ensure that proper reporting and continuity in treatment and care is obtained.

2. If injury is on-site, supervisor/designated employee renders assistance as necessary and makes arrangements for transport.
3. If injury occurs off site, employees need to be informed to call in to report the incident; need for emergency treatment and their destination.
4. **If the injury is traumatic and will result in hospitalization or temporary total disability, the Supervisor/designated agency representative must call the number noted above to report the (C-3 Form) and initiate medical management of the claim. In addition, Risk Management must be notified at 775 687-3187 and the appropriate Department Loss Control Coordinator. It is imperative that all parties be advised to ensure that immediate and appropriate care is provided.**
5. Supervisor or designated agency representative follows up with the employee and/or physician to ensure that the C-4 (Employee's Claim for Compensation/Report of Initial Treatment) Form was completed.
6. Supervisor proceeds with additional procedures listed below starting at #2 below.

INJURIES NOT REQUIRING IMMEDIATE MEDICAL ATTENTION:

1. Employee reports injury to supervisor or designated agency representative and completes **Notice of Injury Form (C-1 Form)**.
2. Supervisor initiates an accident investigation and completes appropriate form.
3. Supervisor/designated representative provides a packet with the following forms and reviews each one with the employee. **The employee's signature must be obtained on the forms that are identified in BOLD letters and a copy provided to the employee:**

Medical Provider List

Physical Assessment Form

Employee's Responsibility Form

Workers' Comp Leave Option Form

Job Description (if nature of injury indicates possibility of work restrictions)

Page 1 of 2

STATE OF NEVADA

PROCEDURES FOR WORKERS' COMP INJURIES/OCCUPATIONAL DISEASES (Con't)

4. Supervisor/designated representative offers to call Occupational Medicine Clinic to set up appointment, if feasible. **Remind employee to return physical assessment form. NOTE: As per Nevada Revised Statutes § 616C.010 (4), the employer can require an employee to submit to an examination by a physician specified by the employer. Employee's can change treating physicians once during the first 90 days of a claim, without prior approval. Therefore, if they seek initial care at an Occupational Health Center, but do not want to continue care there, they can change to another physician within this time frame.**
5. Supervisor/designated representative completes "Employer's Report of Injury" (C-3 Form) within 24 hours if possible, (but no later than 6 days from receipt copy of Employee's Report of Injury-C-4) and attaches a copy of the employee's signed "Leave Choice Option Form". **If an agency chooses to utilize the fax-in service, make sure that the Leave Choice Option Form is also faxed in for inclusion in the claim documentation.**
6. Supervisor evaluates the information on the physical assessment form and develops a modified duty assignment as necessary. **If the employee will not be performing their regular job duties or if the work restrictions are unclear and clarification needs to be obtained, complete the "Temporary Modified Duty Assignment" Form and forward to the medical provider for approval prior to initiating the assignment.**
7. If a job description was not available at the time employee sought medical treatment and employee has been taken off work or if work restrictions are unclear, fax a copy to the medical provider and claims adjustor.
8. Supervisor/designated representative continues to communicate with the employee and initiate return-to-work efforts. Follow procedures identified in 'Supervisor's Checklist' for the Early Return-to-Work Program.

Supervisor/designated employee keeps in contact with injured employee provides assistance as necessary.

Physical Assessment Forms must be provided after each physician visit.

Contact the appropriate agency representative or the Risk Management Division at 775-687-3187 if there are any questions regarding these procedures.

STATE OF NEVADA

WORKERS' COMPENSATION LEAVE CHOICE OPTION

PURPOSE OF THIS FORM:

Employees who are eligible to receive temporary total disability benefits for a lost time claim can continue to receive full salary by choosing one of four options of leave to **supplement** their benefits. The disability checks must be turned over to the agency payroll clerk to receive this benefit. State law prohibits employees from receiving both workers' compensation benefits and full leave benefits simultaneously.

You may choose to be placed on leave without pay in lieu of using accrued leave (NRS 281.390).. If you used paid leave and your leave is exhausted, you may, with the approval of the appointing authority, be placed on a leave of absence without pay.

When you choose options # 2 - #5 to supplement your disability benefits, the amount of paid leave charged equals the difference between the benefits check and your regular salary. Your pay center will issue a check for the full amount of your salary and the benefits check will either be sent to the agency as reimbursement by the insurer or you must turn over the check to your agency if it was sent to you.

These options can be changed or modified as necessary by working directly with the appropriate payroll clerk.

Choice (Check One)

- ☐ **Option #1** - Do not apply any accumulated leave time during the period in which workers' compensation is being received.
- ☐ **Option #2** - Apply accrued sick leave to make up the difference between my workers' compensation benefits and my normal salary during the period in which workers' compensation is being received.
- ☐ **Option #3** - Apply accumulated compensatory time to make up the difference between my workers' compensation benefits and my normal salary.
- ☐ **Option #4** - Apply accrued annual leave to make up the difference between my workers' compensation benefits and my normal salary. **(Annual leave may only be used after sick leave is exhausted, unless you are on approved FMLA leave.)**
- ☐ **Option #5** - Apply a combination of Option #2, #3 or #4 to make up the difference between my workers' compensation benefits and my normal pay, during the period in which workers' compensation is being received. Record in the space below the type and amount of leave and the order in which you would like it used. **Also, note any special instructions regarding leave usage. (example: use all sick leave except for 8 hrs and then apply comp leave)**
- ☐ 4800 hour option for temporarily disabled police officers and fireman. I elect to receive my normal salary for a period of not more than one year *in leau* of receiving compensation for the industrial injury or occupational disease for which I am eligible pursuant to N R S 616A to 617 and I have not made an election pursuant to N R S § 281.390. I have attached documentation from my attending physician or chiropractor that I am unable to perform the duties of my position and will be temporarily **totally** disabled for more than 30 days. (N R S § 281.153 applies)

If I have selected options #2 - #5, my signature below indicates that **I authorize the Workers' Compensation Insurer to send disability payment checks directly to my employer, until such time as the designated leave is exhausted.** I understand that my employer will contact the insurer when this leave has expired and that thereafter my disability checks will be sent directly to me. I further understand that should I receive any compensation under this program, I shall remit my industrial insurance benefit checks to the appropriate Division payroll department.

I understand that the amount of leave benefits combined with workers' compensation benefits cannot exceed my normal salary.

EMPLOYEE'S SIGNATURE

DATE

SUPERVISOR'S SIGNATURE

DATE

WORKERS' COMPENSATION LEAVE CHOICE OPTION

ADDITIONAL INFORMATION

Catastrophic Leave

If all accumulated leave is exhausted employees may request consideration of use of catastrophic leave to make up the difference between their workers' compensation benefits and normal salary.

Health Plan Benefits

State contributions toward the regular Health Benefit Plan will cease after 9 months of leave without pay while receiving workers' compensation benefits. **Employees will be responsible to pay these costs if they wish to continue in the State Health Plan.** The agency is responsible to notify Public Employees Benefits Program when this 9 months has elapsed.

Long Term Disability

Employees may be eligible for long term disability benefits if an absence from work, due to an injury, exceeds 6 months. **It is the employee's responsibility to contact the Public Employees Benefits Program to request this benefit.**

General Assistance

If you are experiencing difficulty in receiving information, responses to requests or delays in medical care from the insurer, contact the appropriate representative within your agency or the Workers' Compensation Section at Risk Management for assistance.

Original to file
Copy to employee
Copy to Nevada Administrators m
Copy to Risk Management

Prepared by:
Risk Management Division
Workers' Compensation Section
Revised 06-10

PERSONNEL REGULATIONS – NAC

DISABILITIES RELATED TO WORK

NAC 284.600 Definitions. (NRS 284.065, 284.155) As used in NAC 284.600 to 284.6019, inclusive, unless the context otherwise requires:

1. “Employee” means an employee who is in the classified service of the State. The term does not include an employee of the Nevada System of Higher Education who is in a temporary appointment as described in subsection 4 of NRS 284.325.

2. “Regular position” means the position an employee held at the time:

(a) Of his work-related injury; or

(b) He became aware of his occupational disease and its relationship to his employment in the classified service of the State.

(Added to NAC by Dep’t of Personnel, eff. 7-1-94; A 3-1-96; A by Personnel Comm’n by R142-05, 12-29-2005)

NAC 284.6002 Physical assessments. (NRS 284.065, 284.155)

1. An appointing authority shall require an employee who has a work-related injury or occupational disease to submit to the appointing authority a physical assessment prepared by the employee’s treating physician or chiropractor. The appointing authority may require the employee to submit a physical assessment after each visit to the physician or chiropractor or after only those visits designated by the appointing authority.

2. Each physical assessment must:

(a) Be reported on a form that provides at least the same information as the form for physical assessments prescribed by the Division of Industrial Relations of the Department of Business and Industry; and

(b) Contain all restrictions imposed on the employee’s ability to work by the treating physician or chiropractor.

3. An employee who is required to submit a physical assessment shall deliver or mail the assessment to the appointing authority within 3 working days after the date of his visit to his treating physician or chiropractor.

(Added to NAC by Dep’t of Personnel, eff. 7-1-94; A by R082-00, 8-2-2000; A by Personnel Comm’n by R142-05, 12-29-2005)

NAC 284.6004 Temporary assignment: Conditions for offer; termination; subsequent assignment; medical examination. (NRS 284.065, 284.155, 284.327)

1. The appointing authority shall prepare a written description of the duties of a temporary assignment to be offered to an employee with a work-related injury or occupational disease. If the employee’s treating physician or chiropractor approves the return of the employee to work, the appointing authority shall offer, in writing, a temporary assignment that is modified according to any restrictions imposed by the employee’s treating physician or chiropractor if:

(a) The restrictions prevent the employee from performing the duties of his regular position;

- (b) The employee has an accepted or pending claim for compensation pursuant to NRS 616C.065 or 617.356;
 - (c) An appropriate temporary assignment is available;
 - (d) The temporary assignment is not prohibited by the source that funds the employee's regular position; and
 - (e) The employee would otherwise be employed by the appointing authority if he had not incurred the work-related injury or occupational disease.
2. A temporary assignment offered pursuant to subsection 1 must be terminated if any of the following occurs:
- (a) Ninety days have elapsed after the date on which the employee began the assignment;
 - (b) The employee's treating physician or chiropractor certifies that the employee has permanent restrictions that prevent him from returning to his regular position;
 - (c) The assignment is no longer available;
 - (d) The employee's treating physician or chiropractor certifies that the employee can perform the duties of his regular position; or
 - (e) The employee terminates his employment or retires.
3. If the employee's claim for compensation pursuant to NRS 616C.065 or 617.356 is denied, the temporary assignment may be terminated at the discretion of the appointing authority.
4. An appointing authority may offer an employee who has a work-related restriction imposed by the employee's treating physician or chiropractor one subsequent temporary assignment if:
- (a) The recovery period for the work-related injury or occupational disease continues to prevent the employee from performing all the duties of his regular position but the employee is performing at least 51 percent of such duties; or
 - (b) The employee returns to work at his regular position but again becomes temporarily unable to perform the duties of his position due to restrictions imposed by the employee's treating physician or chiropractor because of the work-related injury or occupational disease.
5. The subsequent temporary assignment must be recommended by the appointing authority's insurer.
6. Any additional temporary assignment must be limited in accordance with subsection 2.
7. An employee with a work-related injury or occupational disease may be required to submit himself for medical examination pursuant to the requirements set forth in NRS 616C.140 or 617.370 if his treating physician or chiropractor does not approve a temporary assignment to be offered to the employee.
- (Added to NAC by Dep't of Personnel, eff. 7-1-94; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6008 Temporary assignment: Location; jurisdiction of appointing authority; effect of jurisdiction of another appointing authority; classification and payment of employee. (NRS 284.065, 284.155, 284.175, 284.327)

1. A temporary assignment offered to an employee pursuant to NAC 284.6004 must be located less than 25 miles from the location of his regular position,

unless the employee accepts a temporary assignment in a different geographical location.
2. A temporary assignment offered to an employee must be under the jurisdiction of the employee's appointing authority if such an assignment is available. If such an assignment is not available, the appointing authority shall:

- (a) Contact the Risk Management Division of the Department of Administration or the office of the Nevada System of Higher Education that assists with claims for a work-related injury or occupational disease;
- (b) Contact the Department of Personnel; and
- (c) Determine if an appropriate temporary assignment is available under the jurisdiction of another appointing authority.

3. If the employee is offered a temporary assignment under the jurisdiction of another appointing authority, the employee shall be deemed to remain in his regular position as the temporary assignment does not constitute a transfer to that position.

4. For the duration of the temporary assignment, the duties assigned to the employee may not be used as a basis to:

- (a) Reclassify the employee's regular position; or
- (b) Reallocate the class in which the employee is employed.

5. An employee who accepts a temporary assignment offered pursuant to NAC 284.6004 is entitled to receive the base rate of pay he received for his regular position for the number of hours he works or is on paid leave during the temporary assignment. The appointing authority at the time of the work-related injury or occupational disease shall continue to pay the employee for the duration of the temporary assignment.

(Added to NAC by Dep't of Personnel, eff. 7-1-94; A by R147-01, 1-22-2002; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6012 Temporary assignment: Effect of family and medical leave. (NRS 284.065, 284.155, 284.327, 284.345) Except as otherwise provided by the Family and Medical Leave Act, an employee who is granted family and medical leave because a work-related injury or occupational disease prevents him from performing one or more of the essential duties of his regular position:

- 1. Is not required to accept a temporary assignment offered pursuant to NAC 284.6004.
- 2. May voluntarily accept a temporary assignment pursuant to NAC 284.6004. An employee who voluntarily accepts such a temporary assignment retains a limited right to be returned to the position he held before the temporary assignment or an equivalent position subject to the provisions set forth in the Family and Medical Leave Act.

(Added to NAC by Dep't of Personnel, eff. 7-1-94; A 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6013 Determination of effective date of permanent disability. (NRS 284.065, 284.155) For the purposes of NAC 284.6013 to 284.6019, inclusive, the effective date an employee shall be deemed to have a permanent disability arising from a work-related injury or occupational disease is the date the insurer delivers notice to the employee stating that his treating physician or chiropractor has informed the insurer

pursuant to NRS 616C.490 that the employee has permanent restrictions which prevent him from returning to work in his regular position.

(Added to NAC by Dep't of Personnel, eff. 3-1-96; A by R197-99, 1-26-2000; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6014 Eligibility of employee with permanent disability for reemployment. (NRS 284.065, 284.155, 284.305)

1. An employee is eligible for reemployment under this section if:

- (a) He is a permanent employee;
- (b) He would otherwise have continued in his regular position;
- (c) He is unable to perform the essential functions of his regular position, even with reasonable accommodation, because he has a permanent disability arising from a work-related injury or occupational disease;
- (d) The Risk Management Division of the Department of Administration receives notification from the insurer certifying that the employee has a medical condition which, in the opinion of the medical adviser to the insurer, will result in a permanent partial disability;
- (e) The Risk Management Division of the Department of Administration receives notification from the insurer certifying that the employee has permanent physical restrictions as a result of his permanent disability and that he is eligible for vocational rehabilitation benefits;
- (f) The Risk Management Division of the Department of Administration receives notification from the insurer certifying that the employee's claim for benefits from the insurer is not being contested through the hearing and appeal process provided pursuant to chapters 616A to 617, inclusive, of NRS; and
- (g) He submits to the Department of Personnel a completed job development form supplied by the Department not later than 30 days after the date on which he sustained his permanent disability.

2. A person is entitled to reemployment under this section only within the department that employed him at the time he sustained his permanent disability. Such entitlement to reemployment applies to the class and option of his regular position and to any class for which the employee qualifies that does not exceed the grade level of his regular position.

3. A person is entitled to reemployment under this section only in a full-time position if his regular position was on a full-time basis. A person whose regular position was on a part-time, seasonal or intermittent basis only is entitled to reemployment on the same basis as his regular position. A person who is entitled to reemployment on a full-time basis may be reemployed on either a full-time or part-time basis, as appropriate, based on his permanent physical restrictions as certified by the insurer.

4. The employee, his appointing authority and his vocational rehabilitation counselor shall provide any necessary information for job development and reemployment on the forms prescribed by the Department of Personnel.

(Added to NAC by Dep't of Personnel, eff. 3-1-96; A by R197-99, 1-26-2000; R142-05, 12-29-2005)

NAC 284.6015 Risk Management Division to provide certain information regarding permanent disability of employee to Department of Personnel and appointing authority. (NRS 284.065, 284.155) The Risk Management Division of the Department of Administration shall provide to the Department of Personnel and to an employee's appointing authority the following information regarding the employee when the information becomes known to the Division:

1. The date on which the employee sustained a permanent disability arising from a workrelated injury or occupational disease;
2. The date on which the employee will no longer be eligible for vocational rehabilitation benefits;
3. Any written agreement signed by the employee for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation benefits; and
4. Any determination by the insurer that the employee is not entitled to compensation for a permanent partial disability.

(Added to NAC by Dep't of Personnel, eff. 3-1-96; A by R197-99, 1-26-2000; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6017 Placement on reemployment list of name of employee with permanent disability. (NRS 284.065, 284.155, 284.250, 284.305)

1. The name of a person who is eligible for reemployment pursuant to NAC 284.6014 will be placed on a reemployment list in the order of seniority and, if applicable, will be integrated with the names of employees who are placed on a reemployment list pursuant to NAC 284.630, whenever there is a list certified to the department that employed the person in his regular position.
 2. The Department of Personnel will use the same criteria for determining seniority for placement on a reemployment list pursuant to subsection 1 as that used for determining the seniority for a layoff, except that the length of employment for determining seniority must be counted up to the date that the person sustained his permanent disability.
- (Added to NAC by Dep't of Personnel, eff. 3-1-96)

NAC 284.6018 Status following reemployment of person with permanent disability; restoration of name to reemployment list following failure of such person to complete probationary period; rights of employee after expiration of his right to reemployment. (NRS 284.065, 284.155, 284.305)

1. An employee who is separated from state service and is reemployed pursuant to NAC 284.6014 in the same department, class and option as his regular position will have his permanent status restored immediately upon reemployment.
2. An employee who is reemployed pursuant to NAC 284.6014 in a class or option that is different from the class or option of his regular position must serve a new probationary period. If the employee does not complete the probationary period and he is otherwise eligible for reemployment, his name must be restored to the appropriate reemployment list for any remaining part of the year following the date on which he sustained his permanent disability.

3. When the right to reemployment expires, the person affected retains his right to reinstatement or reappointment pursuant to NAC 284.386 or 284.404, respectively.
(Added to NAC by Dep't of Personnel, eff. 3-1-96)

NAC 284.6019 Limitations on eligibility for reemployment of person with permanent disability. (NRS 284.065, 284.155, 284.305)

1. Except as otherwise provided in NAC 284.6018, a person is no longer eligible for reemployment pursuant to NAC 284.6014:

(a) If he signs a written agreement providing for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation benefits, unless such an agreement is subsequently rescinded in the manner set forth in NRS 616C.595;

(b) When he is no longer eligible for vocational rehabilitation benefits;

(c) When it is determined that the employee is not entitled to compensation for a permanent partial disability;

(d) If he accepts an offer of employment with the State of Nevada or another employer which accommodates his permanent restrictions or he is otherwise unavailable for employment;

(e) If he declines an offer of employment which accommodates his permanent restrictions and which is located in the same geographical location as his regular position;

(f) If he is dismissed from the position in which he is reemployed for disciplinary reasons or because he retires;

(g) If he states his intention not to seek reemployment; or

(h) On or after the one year anniversary of the date on which he sustained his permanent disability as determined pursuant to NAC 284.6013.

2. Reemployment rights must not be offered more than one time for the same disability resulting from a work-related injury or occupational disease.

3. As used in this section, "geographical location" has the meaning ascribed to it in NAC 284.612.

(Added to NAC by Dep't of Personnel, eff. 3-1-96; A by Personnel Comm'n by R142-05, 12-29-2005)

SUBSEQUENT INJURY FUND

NRS 616B.540

WHAT IS IT?

The Subsequent Injury program was established through statute and regulation to provide incentive to employers to hire people with disabilities. Basically if an employer is aware of a person's disability and hires that person, or retains that person in employment after learning of the disability AND THE EMPLOYEE IS SUBSEQUENTLY INJURED ON THE JOB, THE EMPLOYER MAY BE RELIEVED OF ALL COSTS OF THAT SUBSEQUENT INJURY. The prior disability must be medically shown to have caused the injury to be worse than if the prior disability or condition was not present. Also, this program could apply if the employee knowingly conceals or makes false statements regarding his or her disability. (example: Job description requires heavy lifting and employee indicates that they can perform the job, but it is later determined that they have a serious back condition.)

WHAT ARE THE QUALIFICATIONS?

It must be established that there was a pre-existing disability or condition, for any reason (industrial, nonindustrial, vehicle accidents, sports injuries, diabetes, thyroid dysfunction if related to carpal tunnel syndrome, epilepsy, etc.) of at least 6% of the whole person. A prior disability rating would be the best indicator, but if there is no rating, the injury or condition can be evaluated to establish the disability. The disability must be serious enough to be an obstacle to employment. The compensation due to the combined effects of the pre-existing disability and the subsequent injury must be greater than that for the subsequent injury alone in order to have a valid claim.

For cases involving misrepresentation, there must be a causal connection between the false representation and the subsequent disability. Also, the employer must have relied on the false representation as a basis of employment.

HOW IS THE PROGRAM ACCESSED?

The best situation is for the agency to have some type of medical documentation if possible. However, due to the highly confidential nature of most medical files, the best thing to do is to complete the proper request form to the insurer if there is knowledge of a prior disability or condition. This can be determined from previous conversations with the employee or by reviewing the medical reports in the the insurer's file for indications of previous disability. Upon receipt of this form, the the insurer's representative will review the file and if appropriate, request a medical information release from the employee in order to obtain pertinent records.

It should be noted that this is not a program that the insurer monitors for the employer, it is the employer's responsibility to request it.

The two issues that the employer must show are that there is in fact a record of a previous disability or condition and that the employer retained the employee in employment after obtaining knowledge of this disability. In many cases, this will not be discovered until after a claim is filed. If the employer takes the employee back on modified duty or is willing to place that employee in an alternative position if necessary, this often meets this obligation.

If Subsequent Injury Relief is pursued the agency representative should inform the employee that this program is being requested and explain that it will not affect their benefits. It will relieve the agency of the costs of the claim.

ERTW (Permanent Limits) NAC § 284.6013 – 284.6019

